

UNITED STATES OF AMERICA
ex rel. Donna Mendez & Selina Rushing and
Selina Rushing, Individually;

Doctors Hospital at Renaissance, Ltd., *et al.*
Defendants.

**LONE STAR DEFENDANTS' OPPOSITION TO THE UNITED STATES'
MOTION FOR LEAVE TO FILE A STATEMENT OF INTEREST REGARDING
DEFENDANTS' MOTION TO DISMISS**

This suit was filed 10 years ago and until recently maintained under seal. During the roughly nine-year period the case was sealed, the United States had ample opportunity to determine whether the case warranted its intervention. In fact, before the United States determined whether it would intervene, it served civil investigative demands for documents upon the Lone Star Defendants (and perhaps other defendants as well). The Lone Star Defendants made an exhaustive search for documents dating back multiple years, and produced roughly 100,000 pages of documents in response. The Lone Star Defendants have learned that the United States also interviewed potential witnesses in the Southern District of Texas, presumably for further factual development. Over time, the United States received multiple extensions of the usual deadline to

make a decision on intervention. Ultimately, the United States declined to intervene. The Lone Star Defendants (and other defendants) filed Motions to Dismiss in the latter part of May, 2021. These Defendants also acceded to Relators' request for additional time to respond, such that the response date was set at June 30, 2021, with Reply Briefs due on July 30, 2021. Relators did in fact respond, and Defendants anticipate filing replies according to the schedule.

The United States has asked to further delay the proceeding by asking for 20 days more, after the reply briefs, to file a "Statement of Interest" if it chooses to do so. The United States offers no basis, nor can it, for its intentional delay and disregard for the Court's normal briefing schedule. In a telephone meet-and-confer, the undersigned counsel for Lone Star asked the United States what issues it might wish to brief, and why it needed more time, particularly in view of the fact that issue has been joined long ago. The United States' counsel refused to answer, "We're not going to engage at this time and want to see the reply briefs first."

That is a ridiculous position. This case has lasted a decade. The United States, which has refused to even specify what issues it might wish to brief, let alone why it would need more time, has already put the Defendants in the unenviable position to trying to gather witnesses and evidence for events going back at least 10 years. Normally the United States has 60 days to decide to intervene, and while extensions are often granted, a 10-year interval is extraordinary. The United States has already had 10 years to figure out the issues involved and the merits of the case. As memories fade, **enough is enough.** The Motion (Dkt. 131) should be denied.

Dated: July 19, 2021

Respectfully Submitted,

SMYSER KAPLAN & VESELKA, L.L.P.

/s/ Lee L. Kaplan

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CERTIFICATE OF SERVICE

I hereby certify that, on July 19, 2021, I filed the foregoing with the Clerk of the Court using the CM/ECF system, which will provide electronic notice to all counsel of record.

/s/ Lee L. Kaplan

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